

House File 2367 - Reprinted

HOUSE FILE 2367
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 614)

(As Amended and Passed by the House March 8, 2012)

A BILL FOR

1 An Act relating to the liability of an owner, lessee, or
2 occupant of land for injury to a trespasser on the land and
3 including an applicability provision.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 462.1 Liability of owner, lessee,
2 or occupant of land — trespassers.

3 1. Except as provided in subsection 2, an owner, lessee, or
4 occupant of land owes no duty of care to a trespasser on the
5 land and is not liable for any injury to a trespasser on the
6 land, except that an owner, lessee, or occupant owes a duty
7 to refrain from injuring a trespasser willfully, wantonly,
8 or through gross negligence. For purposes of this section,
9 "trespasser" means a person who knowingly enters the land of an
10 owner, lessee, or occupant without any legal right, express or
11 implied, or reasonably should have known that the person was
12 entering the land of an owner, lessee, or occupant without any
13 legal right, express or implied.

14 2. An owner, lessee, or occupant of land may be liable for
15 injury to a child who is less than sixteen years of age caused
16 by a dangerous condition on the land if all of the following
17 conditions exist:

18 a. The owner, lessee, or occupant knew or reasonably should
19 have known that such children were likely to trespass at the
20 location of the dangerous condition.

21 b. The dangerous condition is one that the owner, lessee, or
22 occupant knew or reasonably should have known existed, and that
23 the owner, lessee, or occupant realized or should have realized
24 involved an unreasonable risk of death or bodily injury to such
25 children.

26 c. The injured child did not discover the dangerous
27 condition or realize the risk involved in the condition or the
28 risk of injury in the area made dangerous by the condition.

29 d. The owner, lessee, or occupant failed to exercise
30 reasonable care to eliminate the danger or otherwise protect
31 the child.

32 3. Notwithstanding the application of subsection 2 to a
33 child who is less than sixteen years of age, a child who is
34 fourteen years of age or older is presumed to appreciate the
35 risk of dangerous conditions on land, but this presumption may

1 be overcome if the claimant proves that the child, at the time
2 of the injury, did not have the ability to appreciate the risk.

3 4. An owner, lessee, or occupant of land whose actions are
4 justified under section 704.3, 704.4, or 704.5, shall not be
5 liable to a trespasser for damages arising from those actions.

6 5. This section does not affect chapter 461C or create or
7 increase the liability of any person.

8 Sec. 2. APPLICABILITY. This Act applies to all causes of
9 actions accrued on or after the effective date of this Act.